

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Civil Action No. 5:19-cv-25

ROBERT MCGUIRE,

Plaintiff,

v.

LORD CORPORATION,

Defendant.

NOTICE OF REMOVAL

Defendant Lord Corporation (“Defendant”), through its undersigned counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby gives Notice of Removal of the above-referenced action from the Wake County, North Carolina Superior Court to the United States District Court for the Eastern District of North Carolina, Western Division. The removal of this civil action is proper because:

1. On December 27, 2018, Plaintiff Robert McGuire (“Plaintiff”) filed a civil action against Defendant in Wake County Superior Court, styled *Robert McGuire v. Lord Corporation* bearing File No. 18-CVS-14828. True and correct copies of all proceedings in state court are attached hereto as Exhibits A through C and incorporated herein. *See* 28 U.S.C. § 1446.

2. Defendant was served with a copy of the Complaint on January 2, 2019. Defendant was previously served, on December 21, 2018, with an Application and Order Extending the Time to File Complaint and an accompanying Civil Summons. This notice of removal is timely filed within thirty (30) days from the date of service of the initial pleading. *See* 28 U.S.C. §1446(b).

3. The jurisdiction of this Court is proper over this case pursuant to 28 U.S.C. §1332 (diversity jurisdiction) because there is diversity of citizenship between the Plaintiff and Defendant and the amount in controversy exceeds the statutory threshold. Jurisdiction is also proper under 28 U.S.C. § 1331 (federal question jurisdiction). As appears from the allegations in Plaintiff's State Court Complaint, Plaintiff's claims involve federal questions based on the Civil Rights Act of 1964, 42 USC § 2000e *et seq.*

4. Specifically, there is diversity of citizenship between Plaintiff and Defendant under 28 U.S.C. §1332 in that:

a. Plaintiff is a citizen and resident of Hennepin County, Minneapolis, Minnesota at the time this action was commenced. *See* Complaint, ¶1.

b. Defendant is organized under the laws of the Pennsylvania with its principal place of business in Cary, North Carolina. *See* Complaint ¶2.

5. Although the amount in controversy is not specifically pled in the Complaint, it appears from the allegations in the Complaint that the amount would reasonably exceed the Seventy-Five Thousand Dollars (\$75,000) threshold. Plaintiff seeks an award for lost wages and compensatory damages in excess of \$25,000 for violations of Title VII of the Civil Rights Act of 1964. Plaintiff also requests that he be awarded punitive damages and attorneys' fees. The sum of Plaintiff's alleged damages, punitive damages plus attorneys' fees, would appear to exceed \$75,000. *See* Complaint ¶¶50-54.

6. This Court is the proper venue for this action.

7. The Complaint contains a demand for a jury trial. *See* Complaint ¶6.

8. A copy of this Notice of Removal is being filed concurrently with the Clerk of the Wake County Superior Court, in Wake County, North Carolina, together with notice to all parties to this action.

WHEREFORE, Defendant prays that the above-referenced action now pending in the General Court of Justice, Superior Court Division for Wake County, North Carolina, Case No. 18-CVS-14828, be removed therefrom in its entirety to this Court, and, pursuant to 28 U.S.C. § 1446, that the Wake County Superior Court proceed no further unless and until the case is remanded.

Respectfully submitted this 24th day of January, 2019.

/s/ Patricia T. Bartis
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Attorney for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **NOTICE OF REMOVAL** was electronically filed with the Clerk of Court using the CM/ECF system and a copy was served upon counsel for all parties to this action via U.S. Mail, first class postage prepaid, addressed as follows:

Elizabeth K. Venum
P.O. Box 12105
Charlotte, NC 28220

Counsel for Plaintiff

This 24th day of January, 2019.

/s/ Patricia T. Bartis
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